

once fastened, through every change, and into all other hands. The petitioner, therefore, cannot sustain his pretensions upon any foundation of this kind. (r)

In the case under consideration, it is necessary to ascertain whether the plaintiffs or the defendants in these executions are liable to the sheriff for his poundage fees; and the principles upon which that liability rests.

This court has, in many instances, where it has money in its hands which it is about to pay over to a party who is liable no further than to the amount of such assets; or who is not a resident of the state, and within the reach of common law process, allowed a creditor of such a party to come in and obtain payment of his merely legal claim out of the assets or money of his debtor in this court. It seemed to be admitted, and indeed I do not see how it could be denied, that if the plaintiffs in those executions only were liable for these poundage fees, that there could not, from any thing alleged or shewn by the petitioner, be the slightest pretext for this court to entertain jurisdiction of his case, as he has against them an ample remedy at law. Because it is not shewn, that these proceeds are specifically bound for those fees, or that they are assets in respect of which those plaintiffs are chargeable; or that those plaintiffs are insolvent, or non-residents, and beyond the reach of ordinary common law process. There is, therefore, nothing in the petitioner's case which can entitle him to relief upon any such grounds as against the parties to this suit who are the plaintiffs in the executions.

But there are other kinds of executions which go against the person, or do not direct the property of the defendant to be taken and converted into money, on obeying which the sheriff becomes entitled to poundage fees. On taking the defendant into custody under a *capias ad satisfaciendum*, the sheriff becomes entitled to poundage fees on the whole amount. (s) And so, too, on executing a *levari facias*, an *elegit*, or a *liberate*, by virtue of which the property is not sold, but specifically delivered to the plaintiff in satisfaction of his claim. (t) In all these cases, as well as in all those where the execution, after it has been regularly levied, but, before a sale, has been countermanded; or has been quashed on account of some previous error in the proceedings; or the suit has

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(r) *Ridgely v. Iglehart*, ante 540.—(s) *Peacock v. Harris*, 1 Salk. 331.—(t) *Tyson v. Paske*, 2 Ld. Raym. 1212.